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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,260	03/21/2006	Baudouin Ernest Uebelhart	6670/PCT	1716
6858	7590	12/15/2006	EXAMINER	
BREINER & BREINER, L.L.C.			ADDISU, SARA	
P.O. BOX 19290				
ALEXANDRIA, VA 22320-0290			ART UNIT	PAPER NUMBER
			3722	

DATE MAILED: 12/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/566,260

Applicant(s)

UEBELHART, BAUDOUIN
ERNEST

Examiner

Sara Addisu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>1/30/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Double Patenting***

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 1-6 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-4, 8 and 11 of copending Application No. 10/566,259. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claims 1-6 of the instant application are the same as claims 1-4, 8 and 11 of 10/566,259.

Specification

- The abstract of the disclosure is objected to because it is in claim format and contains legal phraseology, e.g. "comprising"..
Correction is required. See MPEP § 608.01(b).

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- 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are:

- page 3, last paragraph, "Motor 1 drives by the intermediary of shaft 1'..."
- page 3, lines 14, "Different tools 9, 9' are hold in the holders.."
- page 3, last line "curve 2' surves to displace the slide 5"
- page 4, line 11-12, "measuring system can be used (attacking e.g. on the longitudinal..."
- page 4, 4th paragraph, "cams 3, 3' is carried out by the attack of the cams..."

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, "the claimed subject matter of claim 6" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

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Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 1, 4, 5 and 6 are objected to because of the following informalities:

- claim 1, line 4 recites "a slide mounted on that basic structure..".
The word "that" should be replaced by "said".
- Claim 1, line 7 recites "two tool holders mounted parallelly to each other". The word "parallelly" should be replaced by "parallel".

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- Claim 4, line 1, recites "tool support according to any of claims 1 to 3..", the word "one" should be inserted after the word "any".
- Claim 5, line 1, recites "tool support according to any of claims 1 to 3..", the word "one" should be inserted after the word "any".
- Claim 6, line 1, recites "tool support according to any of claims 1 to 4..", the word "one" should be inserted after the word "any".

Claim 6 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim can not depend from another multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claim 6 has not been further treated on the merits.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 2, 4 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- claim 1 recites "an axis" on lines 6 and 12. It is not clear if Applicant is referring to only one axis or two different axis.
- Claim 2, again recites "an axis". It is not clear if Applicant is referring to only one axis or claim 2 is referring to a third axis.

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- Claim 4, last two lines recite "...their working position against a resetting force, e.g, against a spring force". The claim format is inappropriate as well as not being clear what the claimed subject matter is.
- Claim 6, has not been described in the Specification, nor shown in the Drawings therefore, Examiner is not clear as to the claimed subject matter.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 6, as best understood, are rejected under 35

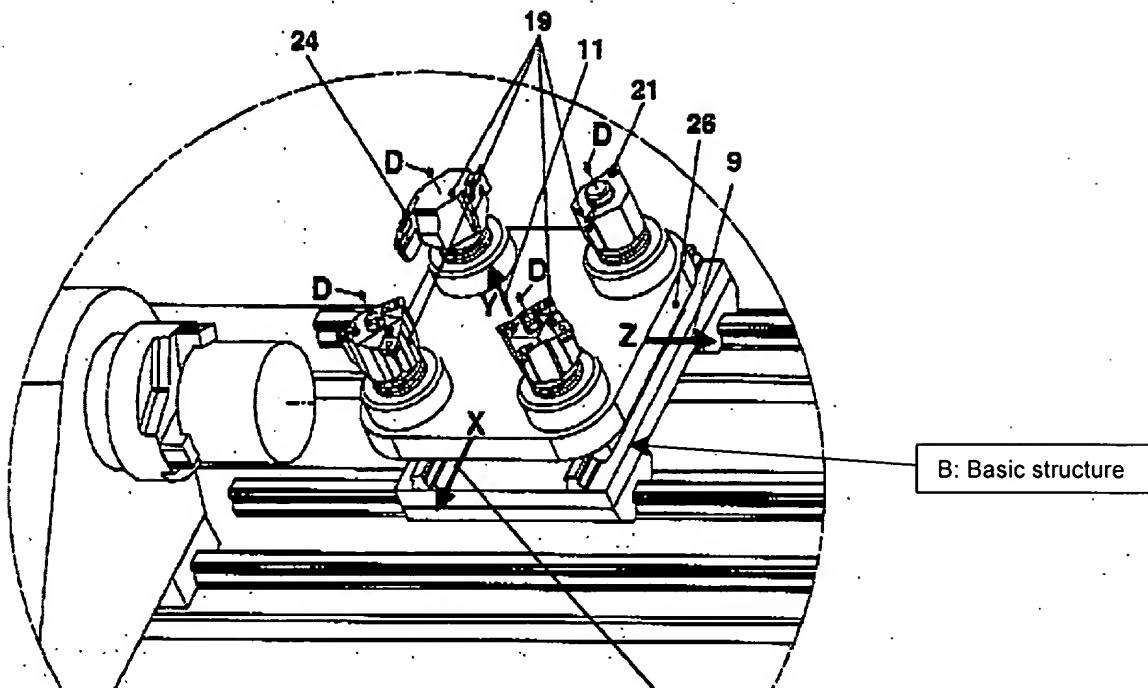
U.S.C. 102(b) as being anticipated by Maier (US Pub. No. 2002/0170396).

Regarding claim 1, MAIER teaches a tool support provided for machining a work piece having a spindle (4) with axis (3), a basic structure (B: see figure below), a slide (26) mounted on said basic structure which is displaceable (X-

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axis) in a controlled manner transversely to the spindle axis, two tool holders (19) mounted parallel to each other on said slide for holding different tools ('396, figure 6). Furthermore, MAIER teaches, each tool holder (19) can be brought into use individually (i.e. tool holders are displaced selectively into and out of the working position) ('396, page 4, paragraph 47). Note: it is old and well known that drive means are used for moving items in a machining environment, in this case the slide and the tool holders move simultaneously along axis X). Furthermore, regarding claims 2 and 3, MAIER teaches, said basic structure being mounted on a tool slide which is displaceable along an axis (Z-axis), which is in the same parallel to the spindle axis (i.e. along the spindle axis) ('396, figure 6).

Regarding claim 4, MAIER teaches the movement of the tool head in the receptacle can be effected more rapidly and more precisely with little outlay such that when designing these drives, care is merely to be taken to ensure that the forces occurring during the cutting action can be completely absorbed ('396, page 3, paragraph 29, last 5 lines). Regarding claim 5, AA teaches in figure 6, a tool holder (19) having insert placed circumferentially at 120 degree intervals.



Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Maier (US Pub. No. 2002/0170396), in view of Yamazaki et al. (USP 4,550,631).

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MAIER teaches a tool support provided for machining a work piece having a spindle (4) with axis (3), a basic structure, a slide (26) mounted on said basic structure and two tool holders (19), as set forth in the above rejection.

However, MAIER is silent about the details of the driving means.

YAMAZAKI ET AL. teaches an indexing system of machine tools where its rotational power is produced by a motor (13) and transmitted to the a crank (6) constituting a driving wheel by way of a driving shaft (12) coupled thereto, a driving bevel gear (11) fixed to the driving shaft (12), and a driven bevel gear (10) meshed with the driving bevel gear (11) and coaxially coupled to the crank 6.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to utilize driving means for indexing MAIER's invention in the same manner, as taught by YAMAZAKI ET AL., for the purpose of having an indexing system which is capable of producing a powerful mechanical holding action by which an indexed structure in determined index positions can be held positively against heavy as well as to have a high-speed indexing systems which will assist in increasing productivity ('631, col. 1, lines 6-21).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sara Addisu at (571) 272-6082. The examiner can normally be reached on 8:30 am - 5 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Carter can be reached on (571) 272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sara Addisu
(571) 272-6082

SA
12/11/06

Monica S. Carter
MONICA CARTER
SUPERVISORY PATENT EXAMINER